

REMARKS

The Office has required restriction in the present application as follows:

Group I: Claims 1 and 2, drawn to a method; and

Group II: Claims 3 and 4, drawn to an apparatus.

Restriction is only proper if the claims of the restricted groups are either independent or patentably distinct. The burden of proof is on the Office to provide reasons and/or examples to support any conclusion with regard to patentable distinctness. MPEP §803.

In regard to Groups I and II, the Office has characterized the relationship between these two groups as process and apparatus for its practice. Citing MPEP §806.05(e), the Office suggests that the apparatus as claimed can be used to practice another and materially different process such as “sand reclaiming.” Applicants note that there is nothing in the record to suggest that the “sand reclaiming” process could be used as the Office has alleged. Further, the Office has failed to explain how the alleged “sand reclaiming” process could be carried out using the claimed apparatus. Accordingly, Applicants respectfully submit that the Office has merely made an unsupported conclusion and the Restriction Requirement should therefore be withdrawn.

In addition Applicants submit that there is no burden in searching the application because thousands of applications have been issued in searching more than two classes.

Therefore, for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the Requirement for Restriction. Withdrawal of the Requirement for Restriction is respectfully requested.

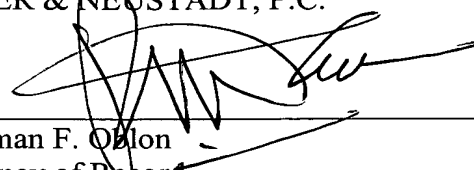
Application No. 09/748,005

Reply to Office Action of February 9, 2004

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice thereof is earnestly solicited.

Respectfully submitted,

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